

## PLANNING COMMISSION MINUTES

August 5, 2008

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Michael Allen, Dave Badham, Barbara Holt, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen, and Recording Secretary Connie Feil.

Absent: Ray Keller.

Clark Jenkins welcomed all those present and introduced all those present.

Barbara Holt made a motion to approve the minutes for July 15, 2008 as written. Tom Smith seconded the motion and voting was unanimous in favor.

**1. Consider final site plan approval for the Orchard Gardens Apartments (12 plex), located at 303 & 321 W. 2600 S., Wilson Properties, applicant.**

Sharmon Smoot and Brandon Rawlins, representing Wilson Properties, were present. Aric Jensen explained that Wilson Properties is requesting final site plan approval for 12 multi-family units. Wilson Properties owns the Orchard Garden Apartments and has recently acquired two adjoining parcels of land adjacent to the northwest corner of that development. The Planning Commission reviewed this project and recommended preliminary approval on July 15, 2008.

Since preliminary review, the applicant has revised the plans as requested. The City Engineer has reviewed the plans, and made a few additional corrections. The only significant change is to require a fire hydrant and 8" waterline to provide appropriate fire protection. The culinary waterline and meter for the apartment building will then stub off of the fire line instead of directly from the street.

South Davis Sewer has verbally stated that they will accept one of the existing 4" sewer laterals, assuming that it is in working order. One of the conditions of approval should be that the applicant provide written acceptance of the 4" lateral from South Davis Sewer District.

There is still no dumpster enclosure shown on the site plans or building elevations. The applicant proposes using an existing, oversized dumpster located on the existing portion of the site. This would be uphill and about 100 feet from the new building. Staff recommends a new dumpster and enclosure on the west side of the new parking lot.

The revised architectural renderings show a substantial increase in stone, which appears to meet the 50% facade requirement and the landscaping plan has been completed as requested.

Staff recommends final site plan approval with the following conditions:

1. Require a fire hydrant and 8" waterline to provide appropriate fire protection.
2. Require the culinary waterline and meter for the apartment building be stubbed off of the fire line instead of directly from the street.
3. Submit written acceptance of the 4" lateral from South Davis Sewer District.
4. Require a new dumpster and enclosure on the west side of the new parking lot.

There was a discussion between Mr. Smoot and the Commission regarding the location for a new fire hydrant and the location of the existing fire hydrants, placement for the new dumpster, and more room for backing out from the parking stalls.

Tom Smith made a motion to recommend to the City Council final site plan approval for Orchard Gardens Apartments (12 plex) located at 303 & 321 W. 2600 S. subject to the 4 conditions outlined by Staff and the addition of the following:

5. Require additional backing space for the west parking stalls.

Dave Badham seconded the motion and voting was unanimous in favor.

## **2. PUBLIC HEARING - Consider a zone map amendment from RM-13 to CH located at 456 & 460 W. 400 N., Jeremy Terry, applicant.**

Jeremy Terry and Brett Jensen, applicants, were present. Aric Jensen explained that Stout Building Contractors are requesting a rezone for their properties located at 456 W 400 N and 460 W 400 N. These two properties are zoned multi-family, but were originally developed as single-family homes back when 400 North was a two-lane road and the traffic volume wasn't 20,000+ cars per day. The intention of the applicants is to combine these two properties with the former trailer park property to the north in order to create a retail commercial center.

This particular issue was discussed by the Planning Commission and City Council in August of 2005 when Moyle Petroleum requested a rezone of the adjacent home for the construction of a carwash at Common Cents. At that time the Planning Commission and City Council approved the rezone for the carwash, and also made a general policy statement in support of rezoning the other 3 lots to the east if they came in for approval. The following is an excerpt from the August 02, 2005, Staff Report, which is still applicable today.

There has been substantial discussion in the past few months about extending commercial zoning eastward along 400 North. Most of this discussion dealt with properties further east, near 200 West, but could be applied to this property as well. The gist of that discussion centered on the impact that "creeping commercial" would have on the stability of existing residential areas, specifically single-family development.

This dwelling (the carwash property) is one of a group of four that front directly onto

400 North and back onto an existing trailer park, and which are located between the Common Cents gas station and an extension of the J&L Nursery property. As such, the dwellings are isolated from the rest of the community and are less desirable as single-family homes. In discussions with the current property owner of the subject parcel, the majority of these homes have high occupancy turnover rates, primarily because of their age and location. The owner also maintains that the owners of the adjacent parcels (the two being considered today) have either sold or are in negotiations to sell their property for future commercial development.

From a purely academic standpoint, it is not advisable to have single-family homes fronting onto a street with traffic volumes in excess of 10,000 vehicles, let alone 20,000 vehicles. The multiple driveway accesses, including the potential for people to try and back out onto the street, are simply unacceptable. A better land use would be a large-scale multi-family/commercial/office development; something big enough to allow a reasonable buffer from 400 North and which could be designed with a shared drive access. These four isolated lots are not deep enough nor wide enough to accommodate this type of development on their own, however, when combined with adjoining parcels such as the Common Cents site, the trailer park, or the J&L Nursery property, they become very viable parcels.

Three years subsequent to the carwash approval, it is clear that Staff's analysis was accurate. The two subject properties did go into decline, they were acquired by the adjacent owners of the trailer park, and a larger commercial development with a single, shared access off of 400 North, is being designed for this property.

Whenever the Planning Commission considers a request for rezone, it shall review it in accordance with the provisions of *14-2-205 AMENDMENTS TO ORDINANCE AND MAP*, which are as follows:

For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments shall not be made to this Ordinance or Map except to promote more fully the objectives and purpose of this Ordinance or to correct manifest errors.

Staff's opinion is that continuing the current use of the land for single-family dwellings along this major arterial street is contrary to the purposes of the Land-Use Ordinance (section 14-1-102) and good planning, for the reasons stated in the staff report. Eliminating the existing multiple driveways, establishing a single, shared access with Common Cents, and combining the subject lots with the trailer park property to create a larger, more viable commercial property, all support the purposes of the Ordinance.

Staff recommends approval of the petition to rezone the parcels at 456 W 400 N and 460 W 400 N, from RM-13 (multi-family) to C-H (heavy commercial), for the reasons listed in the Staff

Report.

The public hearing was opened for all those with comments and concerns.

Brandon Bartholomew, residing at 460 W. 400 N. (upstairs), explained that he and his family have been renting the upstairs for last three years. About three months ago part of the front yard was removed to expand the driveway for the Common Cents Carwash. Mr. Bartholomew had no knowledge about the new driveway and he had no response from the property owner. He also received a letter from the property owner giving him a 24 hour eviction.

Kenneth, residing at 460 W. 400 N. (downstairs), talked to the construction people a few months back and was told that there would be a shared driveway but was not sure when construction would start. The owner of the property mentioned that he could move upstairs when Mr. Bartholomew moves out.

Jeremy Terry explained that Silver Creek Engineering is the owner of the property and his company is under contract to purchase the property. There has been some bad communication between Silver Creek and the renters. Mr. Terry will contact Silver Creek and make sure that things are worked out between those involved.

The public hearing was closed without further comments.

There was a discussion regarding the businesses that will occupy the complex and the percentage of landscaping being proposed. Mr. Mahan requested that Mr. Terry submit a signed letter from the owners supporting the rezone. Mr. Terry stated that he has a signed affidavit from the property owners with this information and will submit that affidavit to Staff.

Michael Allen made a motion to recommend to the City Council a zone map amendment approval for 456 & 460 W. 400 N. from RM-13 to CH based upon previous findings from the Planning Commission and City Council and the analysis contained in the staff memo. Also, subject to the verification of the property owners affidavit. Barbara Holt seconded the motion and voting was unanimous in favor.

Meeting adjourned at 8:00 p.m.

